CYNGOR TREF
LLANFYLLIN
TOWN COUNCIL

VEXATIOUS COMPLAINANT POLICY

LLANFYLLIN TOWN COUNCIL

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1 Introduction

1.1 This policy applies to all complainants, and identifies situations where a complainant, either individually or as part of a group, or a group of complainants, might be considered to be 'habitual or vexatious' and ways of responding to these situations.

1.2 In this policy the term habitual means 'done constantly or as a habit'. The term vexatious is recognised in law and means 'denoting an action or the bringer of an action that is brought without sufficient grounds for winning, purely to cause annoyance to the defendant'. These terms are used in this policy to clarify that we are attempting to deal with persons who seek to be disruptive or whose requests cause disproportionate and repeated efforts on behalf of Council staff by pursuing an unreasonable course of conduct.

1.3 The term complainant in this policy includes requests made under the Freedom of Information Act 2000, the Data Protection Act 2018, and the Environmental Information Regulations 2004, and reference to the complaints procedure is, where relevant, to be interpreted as meaning requests under those Acts.

1.4 Habitual and / or vexatious complainants can be a problem for the Council staff and Members. The difficulty in handling such complaints can place a strain on time and resources. Whilst the Council endeavours to respond with patience and sympathy to the needs of all complainants there are times when there is nothing further which can reasonably be done to assist or to rectify a real or perceived problem.

2 Scope of Policy

2.1 This policy should only be used in exceptional circumstances after all reasonable measures have been taken to try to resolve complaints under the Council's complaints procedure. However, it is not necessary for a complaint to have become a level 3 complaint before this policy can be invoked. Judgement and discretion must be used in applying the criteria to identify potential habitual or vexatious complainants and in deciding on the appropriate action to be taken in specific cases.

2.2 The policy should only be invoked following careful consideration of all the issues by the Clerk in consultation with relevant Member(s). If the complaint is principally or to a reasonable degree against the Clerk, then the matter will be referred to a relevant Committee for consideration. The decision must be reported to the Council.

3 Definition of Habitual or Vexatious Complainant

3.1 Each case will be viewed individually and decided on its merits. However, a complainant (and / or anyone acting on their behalf) may be deemed to be habitual or vexatious if previous or current contact with them shows that they may meet any or all of the following criteria, dependent upon degree.

3.2 Where complainants:

a) Persist in pursuing a complaint where the Council's complaints procedure has been fully and properly implemented and exhausted (e.g. where several responses have been provided).

b) Change the substance of a complaint or continually raise new issues or seek to prolong contact by continually raising further concerns or questions upon receipt of a response. Care must be taken not to discard new issues which are significantly different from the original complaints. These might need to be addressed as separate complaints.

c) Are unwilling to accept documented evidence of action.

d) Are unwilling to accept that the Council has reached a final decision on a chosen course of action.

e) Deny receiving an adequate response despite correspondence specifically answering their questions.

f) Persist in pursuing a matter when they have already exhausted other statutory routes of appeal.

g) Do not clearly identify the precise issues which they wish to be investigated, despite reasonable efforts to help them specify their concerns.

h) Continue to seek to pursue a complaint where the concerns identified are not within the remit of the Council to investigate.

i) Focus on a trivial matter to an extent which it is out of proportion to its significance and continue to focus on this point. It is recognised that determining what is a 'trivial' matter can be subjective and careful judgements must be used in applying this criterion.

j) Have while addressing a complaint, had an excessive number of contacts with the Council placing unreasonable demands on staff time. A contact may be in person or by telephone, letter, e-mail or fax. Discretion must be used in determining the precise number of "excessive contacts" applicable under this section, using judgement based on the specific circumstances of each individual case.

k) Have threatened or used physical violence towards staff at any time – this will, cause personal contact with the complainant and / or their representatives to be discontinued and the complaint will, thereafter, only be continued through written communication. All such incidences will be documented. Llanfyllin Town Council has determined that any complainant who threatens or uses actual physical violence towards staff will be regarded as a vexatious complainant and will receive written confirmation of the same from the appropriate the Clerk. This will also inform the complainant of the action to be taken regarding any further communication received.

l) Have harassed or been personally abusive or verbally aggressive on more than one occasion towards staff dealing with the complaint. Staff recognise, however, that complainants may be sometimes act out of character in times of stress, anxiety or distress and will make reasonable allowances for this. They will document all instances of harassment, abusive or verbally aggressive behaviour.

m) Are known to have recorded meetings or face-to-face / telephone conversations without the prior knowledge and consent of other parties involved.

n) Make unreasonable demands on the customer / complainant relationships and fail to accept that these may be unreasonable, for example, insist on responses to complaints or enquiries being provided more urgently than is reasonable or within the Council's Complaints procedure or normal recognised practice.

4 Strategy for Dealing with Habitual or Vexatious Complainants.

4.1 Where complainants have been identified as habitual or vexatious under the scope of this policy, taking account of the above criteria, the Clerk, in consultation with any relevant Member(s), will determine what action to take. That person will implement such action and will notify complainants, in writing, of the reasons why they have been classified as habitual or vexatious and what action will be taken. They will also be notified of the review procedure under section 5 below.

4.2 This notification may be copied for the information of others already involved in the complaint or matters closely related to it, e.g. Members, staff, Members of Parliament, Members of the National Assembly for Wales. A record must be kept, including on the complaints database, for future reference of the reasons why a complainant has been classified as habitual or vexatious.

4.3 The Clerk may decide to deal with complainants in one or more of the following ways:

a) Withdraw contact with the complainant either in person, by telephone, by e-mail, by fax, by letter or any combination of these, provided that at least one form of contact is maintained. If staff are to withdraw from a telephone conversation with a complainant there will be an agreed statement available for them to use at such times.

b) To restrict contact to liaison through a designated officer.

c) Notify the complainant in writing that the Council has responded fully to the points raised and has tried to resolve the complaint but there is nothing more to add and continuing contact on the matter will serve no useful purpose. The complainant should be notified that any form of contact, either orally or in writing, in

relation to their complaint, or any further complaints relative to the same period of time, or the same or similar issues as an earlier complaint, is at an end, and that further contact received will be acknowledged but not answered.

d) Temporarily suspend, for a period to be specified to the complainant, all contact with the complainant.

e) In extreme circumstances inform the complainant that the Council reserves the right to pass unreasonable or vexatious complaints to its Legal Advisor and may result in legal action against the complainant.

5 Review Decisions and Withdrawing 'Habitual or Vexatious' Status

5.1 Once a complainant has been determined, as habitual or vexatious such status needs to be regularly reviewed, and, where appropriate, withdrawn at a later date. Such action may be appropriate where a complainant subsequently demonstrates a more reasonable approach or submits a further complaint for which the normal complaints procedures would appear appropriate.

5.2 Complainants also have an opportunity to have their habitual or vexatious status withdrawn.

5.3 The Clerk, in consultation with any relevant Member(s), will review their decisions to categorise a complainant as habitual or vexatious at least every six months. In addition, they will review that decision on receipt of a request to do so from the person so categorised, provided such a request has not been received in the preceding six months.

5.4 If the person categorised as habitual or vexatious is not satisfied with the decision reached by the Clerk, they may request that the decision is reviewed by the Council. Such a request for a review may only be received once in any six-month period. Upon receipt of such a request, the Clerk will review the decision, in with relevant members. Notice of that decision will be given, as far as is practical, within 15 working days of receipt of the request.

5.5 The Clerk on review may either withdraw the categorisation of a person as habitual or vexatious or amend the strategy being applied to that person.

5.6 If the Clerk considers it appropriate to withdraw the status of habitual or vexatious complainant, normal contact with the complainant and application of the Council's complaints procedure will be resumed. Notice of that decision will be supplied to the person or persons forthwith.

5.7 Copies of all decisions of the Clerk relating to the categorisation of a person as a habitual or vexatious complainant will be recorded in a central register.

5.8 If the person categorised as habitual or vexatious is not satisfied with the decision reached by the Clerk, they may request that the decision is reviewed by a Panel of 3 Councillors. Such a request for a review may only be received once in any six-month period. Upon receipt of such a request, the Panel will convene a meeting to review the decision to which the habitual or vexatious complainant will be invited to attend. Notice of the decision of the Panel will be given, as far as is practical, within five working days of the Panel meeting.

6 General

6.1 Nothing in this policy affects an individual's statutory rights.

6.2 Members may be approached by individual constituents who have been identified by the Council as habitual / vexatious complainants. In such cases Members may, if they so wish would ask the Clerk to write to those individuals on their behalf, to explain that the Councillor will not be able to deal with the issue whilst they continue to be a vexatious / habitual complainant.